



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 21, 2011

Mr. James Downes
Assistant County Attorney
Harris County
2525 Holly Hall, Suite 190
Houston, Texas 77054

OR2011-08816

Dear Mr. Downes:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 421148.

The Harris County Purchasing Agent (the "county") received a request for a copy of the winning bid for professional accounting services for consulting and auditing of Harris County Hospital construction projects. Although you take no position as to the public availability of the submitted information, you indicate its release may implicate the proprietary interests of Protiviti, Inc ("Protiviti"). Thus, pursuant to section 552.305 of the Government Code, you notified Protiviti of the request and of the company's right to submit arguments to this office as to why its information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). You state Protiviti requested that the county withhold portions of the requested information, and you are relying on Protiviti to submit the appropriate briefing to this office. We have reviewed the submitted information.

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Protiviti explaining why any portion of the submitted information should not be released. Therefore, we have no basis to conclude Protiviti has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, third party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990).

Consequently, the county may not withhold the submitted information on the basis of any proprietary interest Protiviti may have in it. Therefore, as you raise no exceptions to its disclosure, the submitted information must be released.¹

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eb

Ref: ID# 421148

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Thomas L. Chambers
Managing Director
Protiviti Inc.
711 Louisianan, Suite 1200
Houston, Texas 77002-2781
(w/o enclosures)

¹You state the county will withhold the insurance policy numbers marked in the submitted information pursuant to Open Records Decision No. 684 (2009), which is a previous determination issued by this office to all governmental bodies authorizing them to withhold ten categories of information without the necessity of requesting an attorney general decision, including an insurance policy number under section 552.136 of the Government Code.